Issuing Agency/Office:	Animal and Plant Health Inspection Service (APHIS)/ Biotechnology Regulatory Services (BRS)
Title of Document:	Guidance for Requesting a Regulatory Status Review (RSR) under 7 CFR part 340
Document ID:	BRS-GD-2020-0003
Date of Issuance:	TBD
Replaces:	N/A
Summary:	This document assists with preparing a request for Regulatory Status Review (RSR) of a plant developed using genetic engineering as described in 7 CFR § 340.4. APHIS protects and enhances U.S. agricultural and natural resources using a science-based and risk-based regulatory framework to ensure the safe movement – including importation, interstate movement, and confined environmental release – of organisms developed using genetic engineering. APHIS receives its regulatory authority from the Plant Protection Act, and oversees organisms developed using genetic engineering in accordance with its regulations under 7 CFR part 340 (Movement of Organisms Modified or Produced Through Genetic Engineering) (85 FR 29790). See https://www.aphis.usda.gov/aphis/ourfocus/biotechnology for more information.
Disclaimer:	The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency regulations.

USDA-APHIS Biotechnology Regulatory Services

Guidance for Requesting a Regulatory Status Review under 7 CFR part 340

DRAFT – August 2021

Biotechnology Regulatory Services
Animal and Plant Health Inspection Service
United States Department of Agriculture

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The information contained in this document is intended solely as guidance. Except where noted, persons may choose to follow APHIS guidance or follow different procedures, practices, or protocols that meet applicable statutes and regulations.

Language implying that guidance is mandatory (e.g., "shall," "must," "required," or "requirement") should not be construed as binding unless the terms are used to refer to a statutory or regulatory requirement.

Following the guidance contained in this document should not be construed as a guarantee of compliance with applicable statutes and regulations.

Guidance for Requesting a Regulatory Status Review

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Introduction to the Regulatory Status Review (RSR)

APHIS regulations at 7 CFR part 340 govern the movement (importation, interstate movement, and confined environmental release) of certain organisms that are modified or produced through genetic engineering. APHIS is providing the following guidance to help with preparing a Regulatory Status Review (RSR) request under 7 CFR § 340.4. APHIS also offers consultations for requestors with general questions regarding the RSR process or questions about specific requests for RSR review.

A person may request an RSR of a plant developed using genetic engineering (also called the modified plant) based on the provisions in 7 CFR § 340.4. The RSR process involves two distinct review steps, an initial review step and a plant pest risk assessment (PPRA) step. APHIS will complete an initial review of the plant within 180 days of receiving a request for the RSR, except in circumstances that could not reasonably have been anticipated.

- If APHIS does not identify a plausible pathway by which the plant or its sexually compatible relatives would pose an increased plant pest risk relative to the comparator(s) in the initial review, APHIS will conclude that the modified plant is not subject to the regulations in 7 CFR part 340. In this case, APHIS will post the RSR request and the plant, trait, and the general description of the Mechanism of Action (MOA) on the APHIS website[1].

- If APHIS does identify a plausible pathway by which the plant or its sexually compatible relatives would pose an increased plant pest risk relative to the comparator(s) in the initial review, the requestor may ask that APHIS evaluate the factor(s) of concern identified in the initial review and evaluate the likelihood and consequence of the plausible increase in plant pest risk. APHIS will make this determination after conducting a PPRA. The requestor may also ask for a consultation to discuss the request with APHIS after an initial review is conducted, when the requestor may need to make decisions about how to navigate the PPRA portion of the RSR process.

- For those plants for which APHIS conducts a PPRA, if APHIS does not reach a preliminary finding in the PPRA that the plant is unlikely to pose an increased plant pest risk, the plant will remain regulated. Alternatively, if APHIS reaches a preliminary finding that the plant is unlikely to pose an increased plant pest risk, APHIS will publish the RSR request and the preliminary PPRA in the *Federal Register* and will solicit and review comments from the public. After reviewing the comments, if APHIS concludes that the plant and its sexually compatible relatives are unlikely to pose an increased plant pest risk relative to their comparator(s), it will determine that the plant is not subject to the regulations in 7 CFR part 340. APHIS will publish its final evaluation of the plant-trait-

[1] APHIS will release such information without revealing CBI. APHIS will review CBI claims, consistent with applicable laws and statutory authorities, on a case-by-case basis. Requestors will have the opportunity to review and comment on a proposed trait and MOA general description prior to public disclosure.

MOA combination in a second *Federal Register* notice and will also post it on the APHIS website along with the original request. Except in circumstances that could not reasonably have been anticipated, APHIS will complete both RSR steps within 15 months of receiving the RSR request.

If a modified plant has been previously analyzed through the RSR or legacy petition process and been determined not to be regulated, a plant with the same plant-trait-MOA combination is exempt from the regulations under 7 CFR part 340. Please see the Guidance for Requesting a Confirmation of Exemption for more information. If a person wishes to move (including importation, interstate transport, or release into the environment) a plant that is not exempt from regulation under 7 CFR part 340, and for which an RSR has not yet been conducted, is under review, or an RSR was conducted and APHIS was unable to reach a conclusion of unlikely to pose an increased plant pest risk, they may apply for a permit under 7 CFR § 340.5. Please see the Permit User's Guide for more information.

Important Definitions

Below is a list of definitions pertinent to understanding the RSR process. Definitions that come from the regulations are referenced as § 340.3.

Comparator plant. A plant used as a comparison or reference for a plant developed using genetic engineering to determine if the plant being evaluated poses an increased plant pest risk. The ideal comparator plant is the plant from which the plant developed using genetic engineering is derived. The comparator plant can also be a plant that was developed using genetic engineering if it: 1) is not regulated under 7 CFR part 340; and 2) is determined to be the most appropriate baseline for comparison to a plant that is the subject of the RSR request. Use of more than one comparator plant may be appropriate.

Consequence. Outcome(s) that can occur when the plant is present.

Genetic engineering. Techniques that use recombinant, synthesized, or amplified nucleic acids to modify or create a genome. § 340.3

Mechanism of Action (MOA). The biochemical process(es) through which genetic material determines a trait. § 340.3

Occurrence Pattern. The location, time, and manner in which a plant may be found in the environment including the distribution (the geographic area where a plant is grown with intentional human assistance, the geographic areas and habitat types where the plant occurs without intentional human assistance), density (number of individuals per unit area), and development (the timing of growth and developmental stages).

Person. Any individual, partnership, corporation, company, society, association, or other organized group. § 340.3

Phenotype. A set of observable characteristics of an organism resulting from the interaction of its genotype with the environment. A genetic locus controlling a trait within a species can have

two or more different forms, which result in different phenotypes. For example, flower color is considered a trait, while red and white flower colors are two different phenotypes for the flower color trait.

Plant Pest. Any living stage of a protozoan, nonhuman animal, parasitic plant, bacterium, fungus, virus or viroid, infectious agent or other pathogen, or any article similar to or allied with any of the foregoing, that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product.
§ 340.3

Plant pest risk. The potential for direct or indirect injury to, damage to, or disease in any plant or plant product resulting from introducing or disseminating a plant pest, or the potential for exacerbating the impact of a plant pest. § 340.3

Trait. An observable (able to be seen or otherwise identified) characteristic of an organism. § 340.3.

Overview of the RSR Process

When APHIS receives an RSR request for a modified plant, it will follow a two-step process (Figure 1). First, APHIS will conduct an initial review of the plant. During this step, APHIS will consider whether the combination of the plant and the MOA of the introduced or modified trait create a plausible pathway to increased plant pest risk relative to the comparator plant. A plausible pathway to increased plant pest risk is identified when there is a reasonable scientific hypothesis that the plant described in the RSR request, or its sexually compatible relatives that receive the introduced or modified trait through gene flow, would pose an increased plant pest risk relative to the comparator plant. When APHIS completes the initial review, APHIS will inform the requestor that either: 1) there is no plausible pathway to increased plant pest risk relative to the comparator and the plant is not subject to 7 CFR part 340; or 2) there is a plausible pathway to increased plant pest risk relative to the comparator.

When the initial review identifies one or more plausible pathways to increased plant pest risk, APHIS will inform the requestor of the plausible pathway(s) to increased plant pest risk in a letter. At this point, the requestor may choose to: 1) pause the RSR process; or 2) request APHIS evaluate the factor(s) of concern identified in the initial review and determine the likelihood and consequence of the plausible increased plant pest risk by proceeding to the PPRA step; or 3) withdraw the RSR request. A requestor may consult with APHIS on the options for their particular plant. If the requestor chooses to pause the RSR process, they may subsequently ask APHIS to complete a PPRA at any time. A requestor may apply for a permit at any time for the movement of a plant that is undergoing an RSR.

The PPRA will consider the plausible pathway(s) to increased plant pest risk identified during the initial review. APHIS will use publicly available information as well as any relevant information submitted by the requestor to conduct the PPRA. APHIS will post the preliminary PPRA in the *Federal Register* for public comment and consider the public comments when preparing the final PPRA. Based on whether or not the final PPRA concludes that the modified

plant is unlikely to pose an increased plant pest risk relative to the comparator plant, APHIS will determine whether the modified plant will remain subject to 7 CFR part 340.

Data submissions for the RSR will be divided across the two steps of the RSR. When a requestor initiates a new RSR, they will submit a package to APHIS describing the plant, the trait developed using genetic engineering, and the MOA. Based on this information, APHIS will conduct the initial review (step 1). If the initial review identifies a plausible pathway to increased plant pest risk, and the requestor asks APHIS to conduct a PPRA, the requestor may, but is not required to, submit additional information addressing the identified pathways for APHIS to consider in the PPRA (step 2). If the requestor submits additional information after starting either step, the additional information should accompany the originally submitted information in a single package with a cover letter. The cover letter should state this is an updated submission and indicate, where possible, the location of the new information in the submission package.

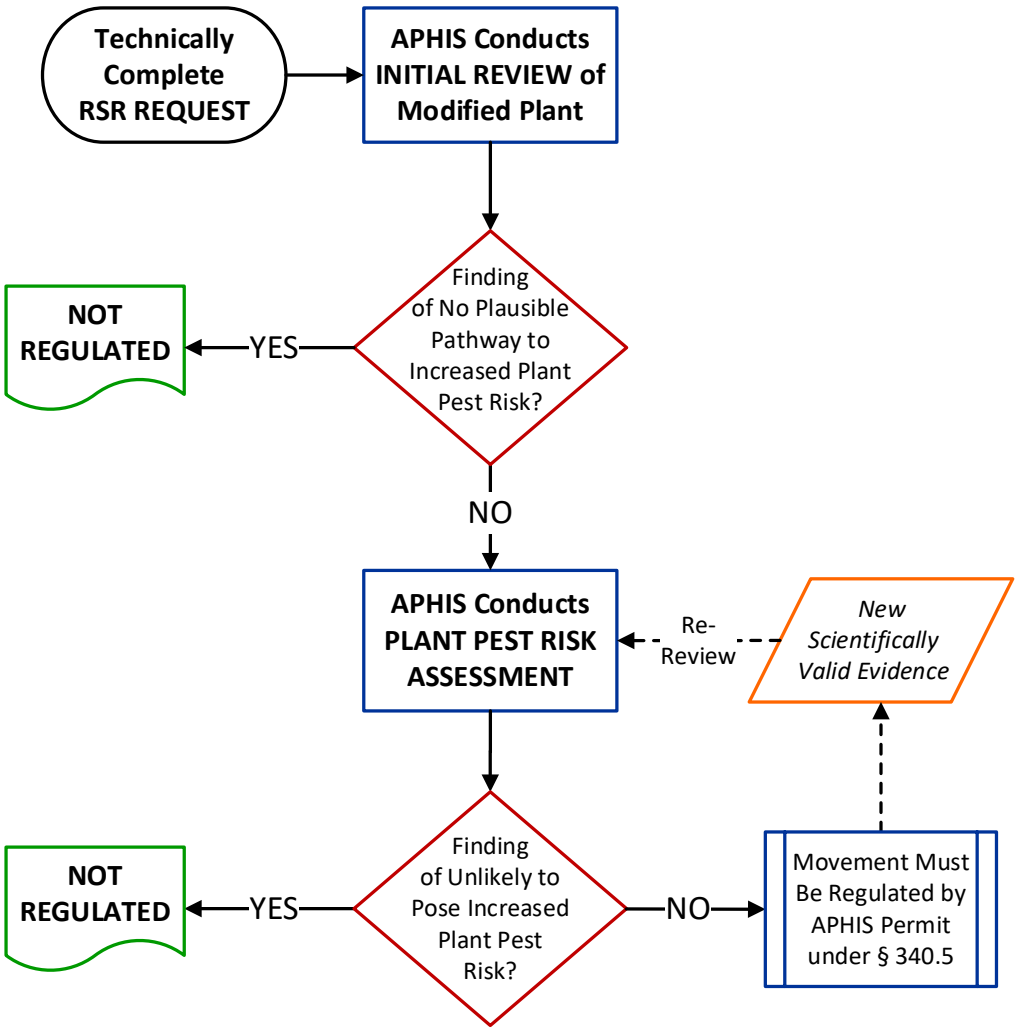

Figure 1. The two-step Regulatory Status Review (RSR) process. The purpose of the first step, initial review, is to identify pathway(s) by which the modified plant or any sexually compatible relatives would pose an increased plant pest risk relative to the comparator plant. If APHIS finds no plausible pathway(s) to increased plant pest risk, the modified plant is not subject to the regulations and the RSR is complete. Alternatively, if one or more plausible pathways to increased plant pest risk are identified in the initial review, the requestor may apply for a permit and/or ask APHIS to proceed to the second step, conducting an evaluation of the factor(s) of concern identified in the initial review through a plant pest risk assessment (PPRA), to determine the likelihood and consequence of the plausible increased plant pest risk. Following the PPRA, if APHIS finds the modified plant is unlikely to pose an increased plant pest risk, the modified plant is not subject to the regulations and the RSR is complete. Alternatively, if APHIS does not make such a finding, movement (importation, interstate movement, environmental release) of the modified plant will remain subject to the regulations. APHIS may conduct a re-review of the regulatory status of the modified plant found to be subject to the regulation if new, scientifically valid evidence bears on the plant pest risk associated with the movement of the plant.

The RSR Evaluation in Detail

Plant pest risk is the potential for direct or indirect injury to, damage to, or disease in any plant or plant product resulting from introducing or disseminating a plant pest, or the potential for exacerbating the impact of a plant pest. In the case of modified plants, increased plant pest risk relative to a comparator plant may result from moving a modified plant into the environment and may be the result of direct or indirect effects of the modified plant. If a modified plant has one or more sexually compatible relatives that may receive the engineered genetic material through gene flow, the potential for the sexually compatible relative(s) to pose an increased plant pest risk is also considered in the RSR analysis.

The plant pest risk associated with a plant is determined by the plant's occurrence pattern and the plant pest-related adverse consequences that arise when the plant occurs in an environment. Plant pest risk can increase if the plant modification (i) changes the occurrence pattern of the modified plant relative to that of the comparator plant, exposing a new environment to the modified plant and adverse consequences associated with the plant; or (ii) increases plant pest related adverse consequences relative to those of the comparator plant, even if the modification does not change the occurrence pattern of the plant; or (iii) changes both occurrence pattern and adverse consequences relative to the comparator plant. In the first case, the plant pest-related adverse consequences associated with the presence of the modified plant are the same as the comparator, but plant pest risk increases because the modified plant occurs (and therefore imparts those consequences) in different locations or situations than the comparator (e.g. plants modified for abiotic stress tolerance). In the second case, the modified plant occurs in the same locations and situations as the comparator, but plant pest risk increases because the plant pest-related consequences associated with the modified plant are different than the comparator (e.g., plants with a significant reduction in lignin content). In the third case both occurrence pattern and the plant pest-related consequences associated with the modified plant are different than the comparator (e.g., a molecular stack for abiotic stress tolerance and lower lignin content).

In the initial review, APHIS will consider the following factors to determine whether there is a reasonable scientific hypothesis that the modified plant would pose an increased plant pest risk relative to the comparator:

- The biology of the comparator plant(s) and its sexually compatible relatives;
- The trait and mechanism-of-action of the modification(s); and
- The effect of the trait and mechanism-of-action on:
    - The distribution, density, or development of the plant and its sexually compatible relatives;
    - The production, creation, or enhancement of a plant pest or a reservoir for a plant pest;
    - Harm to non-target organisms beneficial to agriculture; and
    - The weedy impacts of the plant and its sexually compatible relatives.

When one or more plausible pathway(s) to increased plant pest risk is identified in the initial review, the requestor may request that APHIS conduct a PRRA that examines the plausible occurrence pattern and plant pest-related adverse consequences of the modified plant relative to the comparator and determines the likelihood and consequence of the plausible pathway(s) to increased plant pest risk. APHIS will conduct the PPRA based on the best information available, including publicly available sources and any information submitted by the requestor.

For example, if the comparator of a modified plant is limited by drought stress, an MOA that increases drought tolerance may be hypothesized to alter the occurrence pattern. In this case the initial review would identify a hypothesis that increased drought tolerance in the modified plant would alter the occurrence pattern of that plant leading to an increase in plant pest risk relative to the comparator. APHIS would then conduct a PPRA to assess whether and how the altered occurrence pattern may affect plant pest risk.

The PPRA would examine the plausible magnitude of the change in drought tolerance, predict the occurrence pattern that would result, and assess whether any adverse consequences associated with the modified plant in the new occurrence pattern are associated with increased plant pest risk relative to the comparator. If the modified plant has sexually compatible relatives in the United States, the PPRA would assess whether the sexually compatible relatives could receive the MOA via gene flow from the modified plant, and, if so, would conduct the same analysis for the sexually compatible relatives.

The RSR assumes that the characteristics of the modified plant and its comparator will be identical unless there is a justified scientific rationale for a difference. Therefore, only those plant characteristics that may be hypothesized to be altered by the MOA will be addressed in the PPRA. For example, Figure 2 shows the RSR pathway for corn modified to express a pesticidal protein. In this example, the initial review identified one plausible pathway to increased plant pest risk based on a change in effects on non-target organisms. The requestor submitted information about potential effects on non-target organisms. APHIS conducts a PPRA that analyzes the predicted effects of the modified plant on non-target organisms based on the information about how the pesticidal protein expressed in the plant is expected to affect non-target organisms. The conclusions of the PPRA are based on whether the modified plant has different effects on non-target organisms than the comparator, and whether these differences are associated with increased plant pest risk.

In summary, the initial review step of the RSR will allow APHIS to use existing scientific knowledge about a modified plant and the MOA imparted by genetic engineering to determine whether the modified plant can be hypothesized to result in increased plant pest risk. If the RSR proceeds to the PPRA step, APHIS will use publicly available information and any information the requestor submits to determine the likelihood and consequence of the plausible pathway(s) identified in the initial review and whether they result in increased plant pest risk. Requestors should tailor submissions for the PPRA so that they address only the relevant aspects of plant pest risk identified during the initial review, based on communications from APHIS when the initial review is complete.

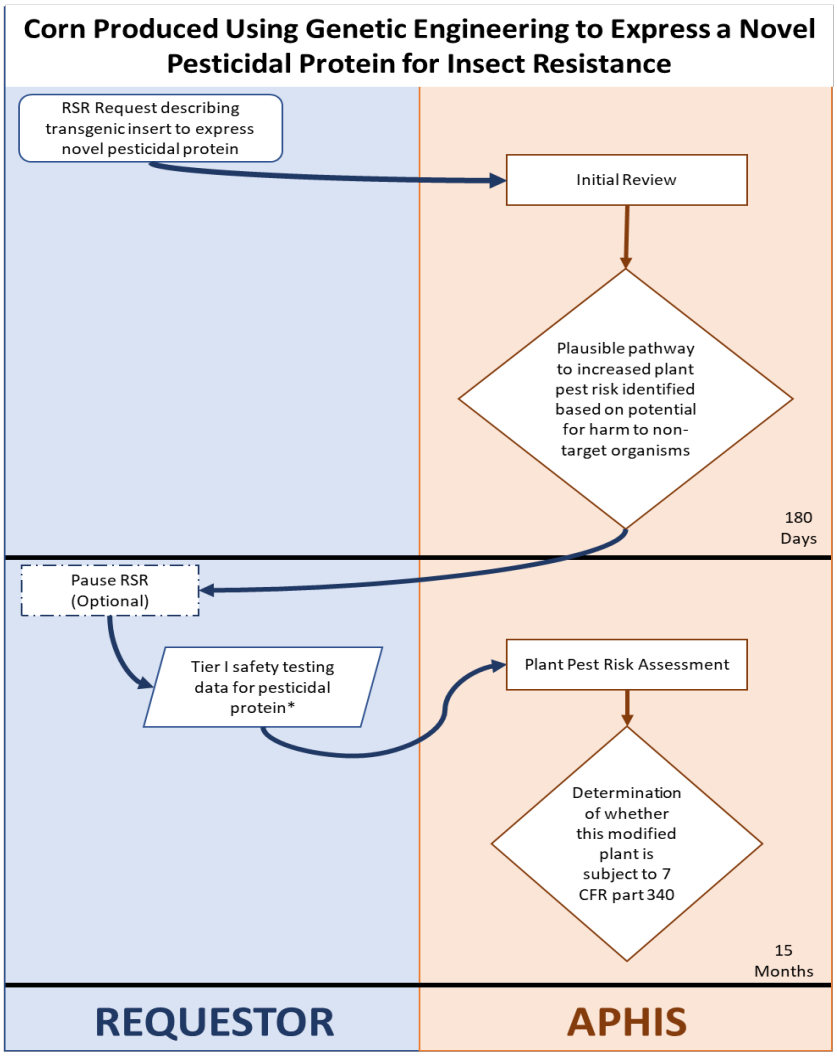

Figure 2. RSR Process for a corn produced using genetic engineering to express a novel pesticidal protein for insect resistance. The RSR requestor initiates the RSR by submitting a description of the modified plant to APHIS. Based on known plant biology and the MOA, APHIS identifies a plausible pathway to increased plant pest risk in the modified corn based on the potential for the pesticidal protein to affect beneficial non-target organisms. These findings are communicated to the requestor after APHIS completes the initial review. The requestor may choose to pause the RSR process or may instruct APHIS to continue with a PPRA. The requestor may provide additional information regarding the plausible pathways to increased plant pest risk at this time. APHIS conducts the PPRA based on publicly available information and the information supplied by the requestor. Based on the PPRA, APHIS makes a determination of whether the modified plant is subject to 7 CFR part 340. In the absence of unanticipated circumstances, APHIS will complete the RSR process in 15 months. This timeframe does not include any time the requestor chose to pause the RSR after being notified of the plausible pathway(s) to increased plant pest risk identified in the initial review.

*After BRS identifies plausible pathways to increased plant pest risk, the requestor can submit data to support the PPRA. In this example, the requestor used the Tiered testing framework as described in the 2007 APHIS/EPA white paper (USDA-EPA. 2007. White Paper on Tier-Based Testing for the Effects of Proteinaceous Insecticidal Plant-Incorporated Protectants on Non-Target Arthropods for Regulatory Risk Assessments. https://www.epa.gov/sites/production/files/2015-09/documents/tier-based-testing.pdf). If Tier I testing was not possible or not sufficient to show that increased plant pest risk is not likely, the requestor could submit higher tier testing data, or a different type of experimental data. APHIS will evaluate that information and relevant publicly-available information in the PPRA. APHIS encourages the requestor to consult with the agency regarding the evidence that the agency deems sufficient to address the plausible pathways.

Request for an RSR—Initial Review Step

Electronically submit your RSR request to RSRrequests@usda.gov, addressed as follows:

Bernadette Juarez
APHIS Deputy Administrator
Biotechnology Regulatory Services

When a new request is received, APHIS will assign an RSR Identification number and inform the requestor of the number. All subsequent communications regarding the request should include the RSR identification number in the subject line. When a requestor submits a modified version of the original RSR request or would like to add additional information during the RSR review, they should send a single document that includes both the original request and the additional information.

When submitting an initial RSR request, the requestor must submit the required information, and may submit the optional information, listed below. Information that directly addresses risk hypotheses that the requestor believes may be generated by the initial review step should not be submitted until the request advances to the PPRA step of the RSR.

Requestor

Personal Information (required). You must provide the requestor's **first name**, **last name**, **position** (optional, if any)**, organization name** (if any), and **contact information** (telephone number and/or email address).

Confidential Business Information (CBI) Statement

Does the RSR request contain CBI information? (required). You must indicate whether the RSR request contains CBI (e.g., "This RSR request contains CBI." or "This RSR request does not contain CBI.")

If CBI information is included, provide a CBI Justification Statement (required). See the instructions at the end of this document regarding the CBI Justification Statement

Description of Comparator Plant

Scientific Name (required). You must provide the **genus**, **species**, and **subspecies** (if relevant) for the comparator plant. You may provide the common name and/or the variety/cultivar/breeding line, though this information is optional.

Genotype of the Modified Plant

Genotype (required). You must provide APHIS with information to understand the genetic differences between the modified plant and the comparator plant, as described

below. The information required to describe the genotype depends on whether genetic material is inserted to the plant or endogenous sequences are altered.

If genetic material is inserted

This category captures situations in which genetic material is inserted into and remains in the genome of the modified plant. If this is the case, the requestor must provide the following information:

Sequence of the Insertion (required). Provide the nucleotide sequence of the inserted genetic material or the intended insertion in FASTA (FAST-All) format.

Reference Numbers (required if available). Provide publicly available nucleotide sequence identification number(s), and protein accession number(s).

Annotation of the Inserted Genetic Material (required). Provide an annotation in tabular format showing the order of the different genetic components (in 5' to 3' direction) and a description of their function. For each component, include the following four pieces of information:

Nucleotide position (required). Provide the base pair position for each component (e.g., 1-100 or 86-205) in the insertion. If the exact nucleotide number of an introduced border region is unknown, provide a range that you wish BRS to consider (e.g., a border region of 10-50 nucleotides).

Name of inserted component (required). Provide a one-to-three-word name based on the component (e.g., 35S promoter, catalase, extensin, PAT, nos terminator, noncoding spacer).

Construct Component Donor (required). Provide the scientific name (genus and species) of the organism from which the genetic sequence was first described or obtained.

- For viruses, do not use abbreviations; spell out the name (i.e., enter Cauliflower Mosaic Virus, not CaMV).
- For a fusion or chimeric component (e.g., a hybrid gene formed from two or more genes), all donor organisms corresponding to each fusion partner should be listed with a comma separating the individual donors.
- Most construct components are derived from sequences originally found in a donor organism. If the original sequence has been altered, the requestor should list the original donor organism and briefly describe the nature of the modifications.
- Synthetic sequences that could be considered truly artificial (e.g., linkers, spacers, and tags) do not share significant sequence homology to a native source of sequences. In this case, the requestor can list the donor organism as "synthetic."
- "Unknown" may not be used.

Function (required). Provide a short statement (generally a phrase or a sentence) describing the function of the inserted genetic material. For lesser-

known components, the requestor may wish to provide literature references to assist APHIS in conducting the review. Avoid the use of internal codes that are not referenced in publicly available sources.

Information about insertion site (when relevant) (optional). For many RSR requests, this information will not affect the conclusions of the RSR. However, in some cases, knowledge of the insertion site may affect the identification of plausible plant pest risks associated with the modified plant. Requestors may wish to provide information on the insertion site when understanding information about the insertion site (e.g. if the insertion is on the plastid genome or if the insertion is limited to a specific genome of a polyploid plant) may affect the potential for gene flow to a sexually compatible relative.

If genetic material is not inserted

This category captures situations in which the genome is modified with or without a template such that existing endogenous genetic sequence is altered (e.g., the sequence of a gene or regulatory sequence is edited). If so, provide the following information in your RSR request:

Name of the altered genetic component and nature of modification(s) (required). You must identify the genetic component(s) that are modified, designating genetic components by a one-to-three word summary based on the component (e.g., catalase, extensin, peroxidase). You must also provide a description of the function of modified sequences. Spell out abbreviations (e.g., alkaline phosphatase). All predictable changes must be provided when the method used may result in more than one modification e.g. for multiple members of a gene family or homeologous genes in a polyploid species.

Sequence of the Modification (required). You must provide the nucleotide sequence of the entire edited region(s) (e.g., the entire edited gene or regulatory region) in FASTA format.

Sequence comparison (required). Compare the modified sequence(s) with the unmodified sequence and designate the changes. A figure or graphical representation of sequence alignment using standard software packages is recommended.

Description of New Trait

Intended trait (required). Briefly describe the intended trait. If possible, provide a description that does not include CBI.

Intended phenotype (required). Describe the phenotype associated with the trait. Provide information on the expected difference between the modified plant and the comparator plant. This should (e.g., purple flower color, resistance to *Phytophthora*).

Description of the Mechanism of Action (MOA) (required). You must describe the MOA by which the intended phenotype will be conferred, to the extent known. This could be a biochemical change (e.g., production of a stress hormone that rapidly alters the osmotic potential of stomatal guard cells, causing them to shrink and stomata to close, or altered induction of an endogenous stress response). This description should include any expected changes in metabolism, physiology, and development due to the trait/genetic modification. The requestor may cite references in this section.

Other Information on the MOA (when relevant). The requestor may submit information on the MOA, to the extent that it is known, to aid the analysis. This information could include any publications and other science-based assessments that may be helpful for APHIS' evaluation of the potential of the plant to pose plant pest risks. Such information could include, information about any new enzymes or other gene products produced; where, when, and at what level the introduced or modified genetic material is expressed in the plant; the biochemical action of the genetic material or its product; description of pathway involved; and how the genetic material or its product participates in or interacts with metabolic, physiological, or developmental processes in the engineered plant or in other organisms. If the same MOA has been evaluated for a different plant taxon, the number of the previous RSR request may also be included. BRS' Plant-Trait-MOA table shows previous RSR and petition submissions that have cleared the review process.

Please note that BRS' Plant-Trait-MOA table specifies that the evaluation of some MOAs, such as MOAs for pesticidal products, considers the tissue concentration profile of the pesticidal product. For such traits, requestors may specify the tissue concentration profile that they wish APHIS to evaluate.

APHIS is aware that not all information will be known about every MOA. The optional information described above are examples of the optional information that may be included. APHIS does NOT expect that all of this information will be submitted for every RSR request.

Request for an RSR—Plant Pest Risk Analysis Step

When APHIS identifies one or more plausible pathways to increased plant pest risk in the initial review, the requestor will be informed of the identified pathway(s) and factor(s) of concern in a letter. At any point after receiving that letter, the requestor may ask APHIS to proceed with conducting an evaluation of the factor(s) of concern identified in the initial review to determine the likelihood and consequence of the plausible increased plant pest risk by preparing a PPRA. If they wish, the requestor may provide APHIS with information addressing the plausible pathway(s) to increased plant pest risk and factor(s) of concern when they ask APHIS to proceed with the PPRA. The interim time between the date APHIS issues the letter identifying the plausible pathway(s) and factor(s) and the date the requestor asks APHIS to proceed with a PPRA will not be counted in the 15 month timeline of the RSR; the process will be paused during this time.

A requestor may ask APHIS to produce a PPRA for an RSR request by sending a letter to RSRrequests@usda.gov, addressed as follows:

Bernadette Juarez
APHIS Deputy Administrator
Biotechnology Regulatory Services

Please reference the RSR identification number in the subject line of the message. The letter should also include the RSR identification number. Requestors who wish to submit optional information to support the PPRA should submit such information and an explanation of how it addresses the plausible pathway(s) to increased plant pest risk and factor(s) of concern identified in the initial review as an attachment to their letter asking APHIS to proceed with a PPRA. The PPRA data package should include the exact package, which was submitted at the initial review stage, followed by new information pertinent to the PPRA.

If information to support the PPRA is being submitted, the data and explanation should be submitted as a single file. For large files, APHIS can provide access to a secure Cloud Vault for upload. Send a message to RSRrequests@usda.gov for access to the Cloud Vault.

When a requestor submits information at the same time as requesting APHIS to proceed with a PPRA, APHIS will review the information within 30 days and inform the requestor if it is sufficient or whether there is a need for clarification or additional information (technical completeness review). If information is submitted after the requestor asks APHIS to proceed with a PPRA, APHIS will inform the requestor of the time needed for a technical completeness review, which will not exceed 30 days. When APHIS informs the requestor of a data deficiency identified during the technical completeness review, the PPRA process will pause until the requestor provides sufficient information to address the deficiency. Requestors can also pause the RSR process at any time. Please note that the technical completeness review identifies only whether additional information is needed to understand how the submitted information pertains to plant pest risk. Technical completeness of a package does not imply that APHIS will reach a particular conclusion in the PPRA.

If a requestor submits additional information after asking that APHIS conduct a PPRA, please include the RSR Identification number in the subject line of the email message and label the attachments in a way that distinguishes them from the original RSR request (e.g., “Supplemental Information for PPRA”).

The preliminary PPRA and all information submitted by the requestor (except for that designated as CBI) will be published in the *Federal Register* for public comment.

APHIS is available for consultation with requestors who are unsure of whether to submit information to support a PPRA, or of the type and format of information that may be useful for the process.

Requesting a Re-Review

If a modified plant was found to be subject to regulation under 7 CFR part 340 after going through the RSR[2], and new information becomes available about the plant pest risk associated with the plant, anyone may request that APHIS develop a new PPRA of the plant based on the new information. In this situation, the requestor must submit new, scientifically valid information pertaining to the plant pest risk of the plant. The requestor should also submit a statement explaining how the new information pertains to the outcome of the previous review.

To request a re-review, a requestor should send a letter, in accordance with the CBI submission guidance found here: https://www.aphis.usda.gov/brs/pdf/CBI_Submission_Guidance.pdf, to RSRrequests@usda.gov. The letter should include:

- The RSR inquiry number associated with the previous submission
- An explanation of how the new information being presented affects the conclusions of the previous review
- An attachment presenting the new information to be considered.

Timeline for the RSR Process

Except in circumstances that could not reasonably have been anticipated, APHIS will complete the initial review within 180 days of receiving a complete submission and the entire RSR within 15 months of receiving a request that meets the requirements specified above. If the requestor chooses to pause the RSR prior to development of a PPRA and instructs APHIS to resume development of the PPRA at a later time, the period that the RSR was paused is not included in the 15-month timeline.

RSR References

Plant-Trait-MOA table for exemptions

Tiered Testing White Paper

Final Rule

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[2] The regulation states: "Any person may request re-review of a modified plant previously found to be subject to this part after an initial review was conducted, provided that the request is supported by new, scientifically valid evidence..." In this case, the use of "initial review" refers to the first completed regulatory status review of a modified plant. An RSR of a modified plant cannot find that the modified plant is subject to regulation until the PPRA has been completed. A re-review may be requested after the first time the entire RSR, including the PPRA step is completed.

Guidance for Requesting a Confirmation of Exemption from Regulation under 7 CFR part 340

BRS Website – The SECURE Rule

eFile Permitting System

Confidential Business Information

If your RSR request, as well as any follow-up documentation you provide, does not contain Confidential Business Information (CBI), it must be marked "**No CBI.**"

If your RSR request, as well as any documentation you provide, contains CBI, you must submit a CBI copy, a CBI-deleted copy, and a CBI justification.

CBI Justification

Pursuant to 7 CFR 1.8(c), a requestor of confidential business information must use good-faith efforts to designate by appropriate markings, at the time of submission, any portion of its submission that it considers to be protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552 (trade secrets and commercial or financial information obtained from a person and privileged or confidential). Information is not protected from disclosure simply because the requestor does not want the information to be made public. As described in 7 CFR 340.7, the requestor must include a statement for each CBI claim that justifies the protection of the information in terms related to confidentiality as defined by Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4). The statement must be detailed enough to demonstrate that each piece of information claimed as CBI meets Exemption 4 and is customarily kept private or secret by the business requestor. These designations expire 10 years after the date of the submission unless the requestor requests and provides justification for a longer designation period.

Click here for examples of the type of information that can be claimed as CBI and that generally meet the definition of confidentiality.

APHIS will review each claim of CBI and will discuss with the requestor any claims that do not meet the criteria for CBI.

Preparation of an RSR Request with CBI

If the RSR request contains CBI, you must submit two copies of the document:

- Each page of a document containing CBI must have "CBI Copy" marked in the upper right corner of the page.
- Each page of a CBI-deleted document (i.e., the CBI text is removed) must have "CBI-deleted Copy" marked in the upper right corner.
- In a document containing CBI, mark with square brackets ("[ ]") only the specific

words or phrases claimed as CBI, and in the right margin for each set of brackets write "CBI."

- In the CBI-deleted copy, replace with blank spaces the words or phrases marked in the CBI copy, mark the spaces with square brackets, and in the right margin for each set of brackets write "CBI- deleted."
- The CBI-deleted copy should be identical to the CBI copy, except 1) blank spaces surrounded by square brackets occurring in the text where the CBI text has been redacted and 2) "CBI-deleted Copy" should appear in the upper right corner of each page instead of "CBI Copy."
- The CBI-deleted copy must be paginated identically to the CBI copy. The CBI-deleted copy should be made directly from the same document that originally contained CBI.
- Do not insert additional text (transitions, paraphrasing, or generic substitutions, etc.) into the spaces of the CBI-deleted copy.
- All published references that appear in the CBI copy should be included in the reference list of the CBI-deleted copy.
- If additional or optional information is submitted, the requestor must submit a complete full package as though this were an entirely new submission, along with a cover letter. The cover letter should indicate this is a revised submission and indicate, where possible, new information is found in the submission package. All CBI formatting should be followed.

Preparation of an RSR Request without CBI

- If the RSR request does not contain CBI, only submit one copy. This document should be clearly marked "No CBI" in the upper right corner of the page.
- If additional or optional information is submitted, the requestor must submit a complete full package as though this were an entirely new submission, along with a cover letter. The cover letter should indicate this is a revised submission and indicate, where possible, new information is found in the submission package. All CBI deleted formatting should be followed.
- For additional questions about CBI and CBI formatting, please contact the BRS Document Control Officer:

  Ms. Cynthia A. Eck
  301-851-3892
  cynthia.a.eck@usda.gov

Optional Template for RSR Requests

INFORMATION MARKED WITH * IS REQUIRED

1. Information about Requestor
   First Name*
   Last Name*
   Position
   Organization Name (if applicable)*
   Contact information* (choose one or both)
   - Telephone
   - Email address

2. Does the request contain Confidential Business Information (CBI)?*
   If yes, CBI Justification Statement.*

3. Description of the comparator plant:
   Scientific name (genus, species)*
   Common Name
   Subspecies / Cultivar / Breeding Line

4. Genotype of the modified plant.
   A. If genetic material is inserted into the genome:
      Sequence of the Insertion*:
      Annotation of the Inserted Genetic Material*
      - Nucleotide position*
      - Name of inserted component*
      - Construct component donor organism*
      - Function*

      Information about insertion site (when relevant)
      Sequence ID (e.g., NCBI)* (when available)

   B. If genetic material is not inserted into the genome:
      Nature of modification(s)*
      Sequence of the Modification*
      Sequence comparison*

5. Description of new trait
   Intended trait*
   Intended phenotype*
   Description of the MOA*
   Other information on MOA (when relevant)